

**UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF MICHIGAN**

ANGELA R. SANFORD

Plaintiff,

Honorable: Judge Sean F. Cox

v.

Case No.: 2:13-cv-15167

DELOITTE, LLP a/k/a  
DELOITTE & TOUCHE USA LLP,  
a/k/a DELOITTE & TOUCHE LLP

Defendant.

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**PLAINTIFF'S MOTION  
TO FILE A SUR-REPLY BRIEF**

NOW COMES Plaintiff Angela R. Sanford, by and through her attorneys, EDWARDS & JENNINGS, PC and I.A.B. ATTORNEYS AT LAW, PLLC, and for her Motion to File a Sur-Reply Brief pursuant to FRCP 12 and LR 7.1, states:

1. On December 8, 2014, Plaintiff Angela Sanford filed this action for race and gender discrimination in violation of Title VII of the Civil Rights Act of 1964; age discrimination in

violation of the Age Discrimination in Employment Act; and race, gender and age discrimination in violation of the Elliott-Larsen Civil Rights Act.

2. On January 21, 2014, before the Complaint was served, Plaintiff amended her Complaint to update the factual statements.

3. On April 8, 2014, the Parties appeared before Judge Cox for a scheduling conference.

4. At the scheduling conference, it became evident that Plaintiff's claims were brought as continuing violations of the aforementioned Acts.

5. For this reason, Judge Cox encouraged Plaintiff to amend her Complaint to make the continuing violations claims clear.

6. On April 21, 2014, Plaintiff filed her Second Amended Complaint.

7. On May 7, 2014, Defendant filed a Motion to Dismiss Second Amended Complaint In Part.

8. On May 13, 2014, this matter was reassigned to this Court.

9. On May 30, 2014, Plaintiff filed her Response to Defendant's Motion to Dismiss.

10. On June 13, 2014, Defendant filed its Reply to Defendant's Motion to Dismiss.

11. Notably, while this Motion to Dismiss has been pending, the Parties continued to conduct discovery.

12. Upon review of Defendant's Reply, Plaintiff noted varied untrue statements and misrepresentations.

13. For example, Defendant misrepresents that Plaintiff (1) concedes that her continuing violations claims are solely based on a pattern and practice theory; and (2) the new argument that Plaintiff's EEOC Charge should be narrowly interpreted.

14. Neither of Defendant's misrepresentations are accurate.

15. Plaintiff seeks an opportunity to provide this Court with arguments that identify Defendant's misrepresentations.

16. Because oral argument in this matter is more than 30 days away, Defendant is in no way prejudiced by the granting of Plaintiff's Motion for Sur-reply.

17. On July 18, 2014, Plaintiff sought concurrence in this Motion and concurrence was denied.

WHEREFORE, Plaintiff requests this Court to enter an Order granting Plaintiff's Motion to File a Sur-Reply Brief.

Respectfully submitted,

I.A.B. Attorneys At Law, PLLC

By: /s/ Felicia Duncan Brock

Felicia Duncan Brock

*Attorneys for Plaintiff*

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 21, 2014, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Thomas Davis, Esquire, Elizabeth Hardy, Esquire, and Alice B. Jennings, Esquire; and I hereby certify that I have mailed by United States Postal Service the document to the following non ECF participants: n/a.

Respectfully,

I.A.B. Attorneys At Law, PLLC

By: /s/ Felicia Duncan Brock  
*Attorneys for Plaintiff*  
25447 Plymouth Rd.  
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(313) 318-3180

Dated: July 21, 2014

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**PLAINTIFF'S BRIEF IN SUPPORT**  
**OF HER MOTION TO FILE A SUR-REPLY BRIEF**

**I. STATEMENT OF RELEVANT FACTS**

On December 8, 2014, Plaintiff Angela Sanford filed this action for race and gender discrimination in violation of Title VII of the Civil Rights Act of 1964; age discrimination in violation of the Age Discrimination in Employment Act; and race, gender and age discrimination in violation of the Elliott-Larsen Civil Rights Act. On January 21, 2014, before the Complaint was served, Plaintiff amended her Complaint to update the factual statements.

On April 8, 2014, the Parties appeared before Judge Cox for a scheduling conference. At the scheduling conference, it became evident that Plaintiff's claims were brought as continuing violations of the aforementioned Acts. For this reason, Judge Cox encouraged Plaintiff to amend her Complaint to make the continuing violations claims clear. On April 21, 2014, Plaintiff filed her Second Amended Complaint. On May 7, 2014, Defendant filed a Motion to Dismiss Second Amended Complaint In Part.

On May 13, 2014, this matter was reassigned to this Court. On May 30, 2014, Plaintiff filed her Response to Defendant's Motion to Dismiss. On June 13, 2014, Defendant filed its Reply to Defendant's Motion to Dismiss. Notably, while this Motion to Dismiss has been pending, the Parties continued to conduct discovery. Upon review of Defendant's Reply, Plaintiff noted varied untrue statements and misrepresentations. For example, Defendant misrepresents that Plaintiff (1) concedes that her continuing violations claims are solely based on a pattern and practice theory; and (2) that Plaintiff's EEOC Charge should be narrowly interpreted.

Neither of Defendant's misrepresentations are accurate. Plaintiff seeks an opportunity to provide this Court with arguments that identify Defendant's misrepresentations. Because oral argument in this matter is more than 30 days away, Defendant is in no way prejudiced by the

granting of Plaintiff's Motion for Sur-reply. On July 18, 2014, Plaintiff sought concurrence in this Motion and concurrence was denied.

## **II. DISCUSSION**

### **A. BECAUSE DEFENDANT'S WILL NOT BE PREJUDICED, PLAINTIFF'S MOTION FOR SUR-REPLY BRIEF SHOULD BE GRANTED.**

Federal Rules of Civil Procedure rule 12 and Eastern District of Michigan local rule 7 provides the briefing schedule for motions filed in this Court. Periodically, a party will see a need to file briefs in excess to what is allowed under the aforementioned rules. On occasion, in response to such a motion, this Court will allow a party to file sur-reply briefs. (See e.g. *Fruehauf v. Fruehauf Prod. Co., L.L.C.*, 2008 U.S. Dist. LEXIS 14072 (E.D. Mich. 2008) (Exhibit A); and *EEOC v. St. John Hosp. & Med. Ctr.*, 2012 U.S. Dist. LEXIS 127405 (E.D. Mich. 2012) (Exhibit B).

Here, Plaintiff seeks to file a Sur-reply brief. Plaintiff finds herself in the unusual position of filing such a Motion because Defendant has misrepresented Plaintiff's arguments, as well as facts, in an effort to partially dismiss her claims. In addition, Defendant also attempts to mislead this Court into finding that claims made in Plaintiff's EEOC Charge are to be narrowly interpreted and applied. Plaintiff seeks an opportunity to respond to these arguments.

In addition, because this Court scheduled the hearing of this matter on August 26, 2014, Defendant is in no way prejudiced by the filing of this Motion at this time. In fact, Plaintiff's sur-reply brief could be filed in enough time to allow this Court at least two weeks to review the brief and incorporate Plaintiff's arguments in its questioning for oral argument and/or to incorporate the arguments in its Opinion.

### **III. CONCLUSION**

For all reasons stated herein, Plaintiff asks that this Court grant her Motion to File a Sur-Reply Brief.

Respectfully submitted,

I.A.B. Attorneys At Law, PLLC

By: /s/ Felicia Duncan Brock  
*Attorneys for Plaintiff*  
25447 Plymouth Road  
Redford, Michigan 48239  
(313) 318-3180

Dated: January 31, 2013

### **CERTIFICATE OF SERVICE**

I hereby certify that on July 21, 2014, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Thomas Davis, Esquire, Elizabeth Hardy, Esquire, and Alice B. Jennings, Esquire; and I hereby certify that I have mailed by United States Postal Service the document to the following non ECF participants: n/a.

Respectfully,

I.A.B. Attorneys At Law, PLLC

By: /s/ Felicia Duncan Brock  
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(313) 318-3180

Dated: July 21, 2014